



**Department
of Health**

**Environmental
Facilities Corporation**

ARCHITECTURAL/ENGINEERING SERVICES PROCUREMENT FOR ENVIRONMENTAL FACILITIES CORPORATION FUNDED PROJECTS

Effective April 1, 2023

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ARCHITECTURAL/ENGINEERING SERVICES PROCUREMENT FOR EFC FUNDED PROJECTS

Municipalities requesting financing for architectural/engineering (“A/E”) services must procure A/E services in accordance with certain qualifications-based requirements. This guidance document describes the types of services that are considered A/E services and how these A/E services must be procured.

Please Note: This guidance document applies to all projects financed by the Environmental Facilities Corporation (“EFC”) whose A/E services are procured *after* 10/1/2022.¹

If a municipality is seeking project financing for A/E services that were not procured pursuant to this guidance document, EFC will only finance such A/E services if:

1. The procurement occurred *before* 10/1/2022;
2. A financing application is submitted for the project prior to June 16, 2023; and
3. A project finance agreement is entered into for the financing of such project prior to October 1, 2024.

What types of services are covered A/E services?

Contracts for program management, construction management, feasibility studies, preliminary engineering, design, engineering, surveying, mapping, or A/E services as defined in 40 U.S.C. 1102(2)(A-C):

(A) professional services of an architectural or engineering nature, as defined by state law, if applicable, that are required to be performed or approved by a person licensed, registered, or certified to provide the services described in this paragraph;

(B) professional services of an architectural or engineering nature performed by contract that are associated with research, planning, development, design, construction, alteration, or repair of real property; and

(C) other professional services of an architectural or engineering nature, or incidental services, which members of the architectural and engineering professions (and individuals in their employ) may logically or justifiably perform, including studies, investigations, surveying and mapping, tests, evaluations, consultations, comprehensive planning, program management, conceptual designs, plans and specifications, value engineering, construction phase services, soils engineering, drawing reviews, preparation of operating and maintenance manuals, and other related services.

¹ A municipality that entered into a project finance agreement with EFC before October 1, 2022 should reach out to EFC to discuss any new procurement of A/E services.

How must A/E services be procured?

Municipalities must procure A/E services pursuant to the provisions of 40 U.S.C. 1101 *et seq.* In general, these require:

- (i) Public announcement of the solicitation (e.g., a Request for Qualifications);
- (ii) Evaluation and ranking of the submitted qualifications statements based on established, publicly available criteria (e.g., identified in the solicitation). Evaluation criteria should be based on demonstrated competence and qualification for the type of professional services required (e.g., past performance, specialized experience, and technical competence in the type of work required);
- (iii) Discussion with at least three firms to consider anticipated concepts and compare alternative methods for furnishing services;
- (iv) Selection of at least three firms considered to be the most highly qualified to provide the required services; and
- (v) Contract negotiation with the most highly qualified firm to determine compensation that is fair and reasonable based on a clear understanding of the project scope, complexity, professional nature, and the estimated value of the services to be rendered. In the event that a contract cannot be negotiated with the most highly qualified firm, negotiation continues in order of qualification.

How does the municipality show compliance with the federal A/E procurement requirements?

Municipalities will be required to execute an Environmental Facilities Corporation Certification for Architectural/Engineering Services Procurement for Federally Funded Projects in the form attached to this guidance. The Certification must be signed by an authorized representative of the municipality. It cannot be signed by a hired contractor or consultant.

What A/E documentation does a municipality need to keep?

The Certification for Architectural/Engineering Services Procurement for Federally Funded Projects and documentation evidencing completion of the procurement steps outlined above are required to be kept on file by the municipality and be made available for inspection upon EFC's request. These documents must be kept for the term of the EFC financing plus 6 years consistent with the other records required to be kept pursuant to the Project Financing Agreement for the project.

Are contract amendments subject to federal A/E procurement requirements?

Significant contractual amendments are subject to this requirement. Significant contractual amendments are amendments to existing contracts that have a value greater than \$100,000 AND introduce a new scope of work or task.



**Environmental Facilities Corporation Certification for Architectural/Engineering
Services Procurement for Federally Funded Projects**

Municipality:

EFC Project Number:

| Contract ID | Contractor Name | Execution Date |
|-------------|-----------------|----------------|
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I, _____, am an Authorized Representative of the Municipality.

I hereby certify that the Municipality has procured the Architectural and Engineering Services (as that term is defined in 40 U.S.C. 1102) for the contract(s) listed above in accordance with 40 U.S.C. 1101 *et seq.*, as outlined below.

- (i) Public announcement of the solicitation (e.g., a Request for Qualifications);
- (ii) Evaluation and ranking of the submitted qualifications statements was based on established, publicly available criteria (e.g., identified in the solicitation). Evaluation criteria should be based on demonstrated competence and qualification for the type of professional services required (e.g., past performance, specialized experience, and technical competence in the type of work required);
- (iii) Discussion with at least three firms to consider anticipated concepts and compare alternative methods for furnishing services;
- (iv) Selection of at least three firms considered to be the most highly qualified to provide the services required; and
- (v) Contract negotiation with the most highly qualified firm to determine compensation that is fair and reasonable based on a clear understanding of the project scope, complexity, professional nature, and the estimated value of the services to be rendered. In the event that a contract could not be negotiated with the most highly qualified firm, negotiation continued in order of qualification.

Authorized Representative

Title:

Date: